

Docket # FMCSA-2001-11117

Iowa recognizes the importance of these rules that have been established in the interest of national security and is willing to comply with the imposed mandates. However, the compliance date of November 3, 2003, does not provide a reasonable amount of time in which to make changes to the Iowa Administrative Code, to make technical amendments to state statutes, to make appropriate computer programming changes, to train employees and to put in place the mechanism with law enforcement agencies for finger printing services or contract with a third party for such services. This is particularly true in light of the fact that the Transportation Security Administration (TSA) has not yet developed specific procedures. We fully recognize the enormity of the tasks facing TSA and do not intend our comments to be critical, but to be reflective of our state's concerns about implementation.

Iowa's Legislature meets annually and our legislative proposals are already being prepared for the 2004 session. We have no clear guidance on which to propose changes necessary to implement the new hazardous materials (HM) requirements. Without these technical changes to state statutes, we believe that cancelling the HM endorsement or disqualifying the driver with an HM endorsement who may fail to meet the security criteria would be overturned on appeal. Even if we were able to make proposals for the 2004 session, it is unlikely the changes would go into effect sooner than July 1, 2004. Like many states, our computer programming resources are limited and programmers' time is at a premium. We find it difficult to keep up with programming required for our standard course of business, let alone programming required without the opportunity for advance administrative coordination. Iowa has eighteen state licensing facilities and eighty county facilities involved in driver licensing. We maintain close supervisory authority over all the facilities and will need time to train both state and county staff to assure the quality and integrity of Iowa's program is not compromised. We are interested in exploring the possibility of contracting with a third-party who already has the expertise to capture and submit the fingerprints in a way that minimizes rejects. However, we have insufficient information to develop an RFP. If a third-party arrangement is not feasible, we need time to work with Iowa law enforcement agencies who are already seeking answers to questions on this process, answers we cannot yet provide. Without federal funding, the purchase of LiveScan fingerprinting technology is problematic under our current budgetary constraints.

Holding the jurisdictions to an unreasonable compliance date may place every state into a status of noncompliance with a CDL program we have worked hard to be compliant with since 1992.

The motor carrier industry is watching this issue closely as well. We have consulted with industry representatives in Iowa and their foremost concern is also with the November 3, 2003, compliance date. Iowa strongly urges that the November implementation date be delayed to give TSA time to develop specific procedures and to allow the jurisdictions and industry the time needed to prepare.

Iowa industry is concerned that some very good drivers will decide that one more federal requirement isn't worth the time, effort and expense and seek other employment. This is on top of an already diminished potential employee pool. Industry fears that shipping rates are likely to increase as:

- a. the costs for the fingerprint/background checks are passed on to the employer;

- b. employees are "on the clock" (paid) for the time it takes to travel to designated processing sites and complete the extensive application process;
- c. the pool of available drivers will become reduced;
- d. legal costs rise as employees and potential employees challenge carriers' right to terminate based on inability to obtain an HM endorsement;
- e. increased salary demands from HM endorsed drivers.

The motor carrier industry looks to us (state licensing agencies) for answers that include specific guidelines. We are currently unable to provide the information they need. Questions recently posed:

1. Will seasonal or Restricted CDL holders have to comply with the HM security check requirements? If, yes, the turn-around time for the security check will have to be shorter as the time designated for use of the Restricted CDL is limited.
2. Are fingerprints retained in a database or destroyed after the application is processed?
3. Will FMCSA notify the employer of a disqualified driver? Or, will the licensing jurisdiction be allowed to make such notification?
4. Will employers need documented authorization from drivers before requiring the security check?
5. Can renewal applications be accepted and the security checks started before 180 days prior to expiration?

Iowa recommends that all current HM endorsements expiring before April 29, 2004, be extended and new licenses issued to document the extension. The term of the extension period should be based on the amount of time reasonably expected to complete a security check. Upon a favorable security check response, a duplicate can then be issued to bring the HM endorsement expiration into alignment with the term of the base license.

Iowa asks that FMCSA work closely with the American Association of Motor Vehicle Administrators (AAMVA) to establish a new compliance date based on a TSA release of a final procedures document. AAMVA already has a working group studying related issues such as the Motor Carrier Safety Improvement Act of 1999. This group enjoys an excellent working relationship with FMCSA. The study of the requirements of 49 CFR Parts 1570 and 1572 should be folded into this process along with TSA involvement. With a previously established communication link to the jurisdictions, AAMVA can serve as a forum for cooperation and mutual agreement.

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